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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 ABDIKARIM KARRANI,

10 Plaintiff,

11 v.

12 JETBLUE AIRWAYS CORPORATION, a
Delaware Corporation,

13 Defendant.

Case No. C18-1510-RSM

ORDER DENYING DEFENDANT
JETBLUE AIRWAYS CORPORATION'S
MOTION FOR RECONSIDERATION
AND DENYING STAY OF COURT'S
ORDER

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15 **I. INTRODUCTION**

16 This matter comes before the Court on Defendant JetBlue Airways Corporation
17 ("JetBlue")'s Motion for Reconsideration. Dkt. #63. On May 28, 2019, this Court granted in part
18 and denied in part Plaintiff's motion to compel various discovery requests. Dkt. #50.
19 Specifically, the Court held that personnel files of the crewmembers on board Flight 263 were
20 discoverable. JetBlue seeks clarification on the scope of the term "personnel files" used in the
21 Court's Order. Dkt. #63 at 1. Alternatively, JetBlue asks that the Court reconsider its Order on

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23 ORDER DENYING DEFENDANT JETBLUE
AIRWAYS CORPORATION'S MOTION FOR
RECONSIDERATION AND DENYING STAY OF
COURT'S ORDER

1 Plaintiff's motion to compel. *Id.* JetBlue furthermore requests a stay of additional document
2 production pending the Court's clarification of these issues. *Id.* at 3. The Court has determined
3 that response briefing is unnecessary. *See* Local Rules W.D. Wash. LCR 7(h)(3).

4 II. DISCUSSION

5 A. Financial Information

6 JetBlue first seeks clarification on whether the Court's Order compelling production of
7 "personnel files" includes financial information contained in these personnel files, such as payroll
8 data, benefits, overtime amounts, out of class work, and retirement. Dkt. #63 at 3. The Court's
9 Order defines the scope of "personnel files" as those documents "related to an individual's
10 employment" with reference to the definition set forth in Plaintiff's Interrogatories. Dkt. #50 at
11 5. The Court therefore intended to use Plaintiff's definition of "personnel files" without creating
12 exceptions for particular categories. Accordingly, the Court will consider JetBlue's Motion as a
13 motion for reconsideration with respect to production of crewmembers' financial data.

14 "Motions for reconsideration are disfavored." LCR 7(h)(1). "The court will ordinarily
15 deny such motions in the absence of a showing of manifest error in the prior ruling or a showing
16 of new facts or legal authority which could not have been brought to its attention earlier with
17 reasonable diligence." *Id.* Defendant's Motion neither demonstrates manifest legal error, nor
18 does it direct the Court to new facts or legal authority that JetBlue could not have presented in its
19 prior response to Plaintiff's motion to compel.

20 In support of its Motion for Reconsideration, JetBlue distinguishes between this case and
21 *Lauer v. Longevity Med. Clinic PLLC*—an employment discrimination case in which the court

1 determined it is difficult to select the part of employment files “reasonably likely” to yield
2 admissible evidence. Dkt. #63 at 4 (citing C13-0860-JCC, 2014 WL 5471983, at *4 (W.D. Wash.
3 Oct. 29, 2014)). In demonstrating that *Lauer* is inapplicable to this case, JetBlue states, “This case is
4 not an employment discrimination case.” *Id.*

5 However, this Court did not rely exclusively on *Lauer*—nor any employment discrimination
6 case—in holding that the personnel files of crewmembers on board Flight 263 were discoverable.
7 On the contrary, the Court found persuasive a federal civil rights discrimination case involving
8 two African-Americans allegedly denied service at a restaurant due to their race. *See* Dkt. #50 at
9 6 (citing *McCoo v. Denny’s, Inc.*, 192 F.R.D. 675, 679 (D. Kan. 2000)). The *McCoo* court
10 declined to parse out the discoverability of specific categories of documents contained in
11 employees’ personnel files, finding that “[a]ll documents contained within those employees’
12 personnel files shall be produced to Plaintiffs,” with the exception of any documents protected
13 pursuant to an existing Consent Decree and Stipulation. *McCoo*, 192 F.R.D. at 688 (emphasis
14 added). Defendant’s Motion for Reconsideration makes no reference to *McCoo* nor any case law
15 adverse to its holding that personnel files, in their entirety, are discoverable in federal civil rights
16 discrimination cases for those employees who played an “important role” in the incident giving
17 rise to the lawsuit either as direct participants or as witnesses. *See id.* at 687.

18 Furthermore, JetBlue’s Motion clarifies its position that financial data should not be
19 discoverable under the umbrella of “personnel files” for which the Court compelled production,
20 on the basis that these records “are not relevant to Plaintiff’s discrimination claim and are
21 disproportionately burdensome and encroach on the privacy interests of JetBlue’s employees.”

1 Dkt. #63 at 3. However, in its original response to Plaintiff’s motion to compel, JetBlue provided
2 a broader definition of “employment information” that was unlikely to lead to the discovery of
3 admissible evidence: “payroll data, sick leave, *insurance*, benefits, *counseling*, retirement,
4 *demographic*, *FMLA*, or *other sensitive employment information . . .*” Dkt. #22 at 9 (emphasis
5 added). In analyzing this broader category of “sensitive employment information” provided by
6 Defendant, the Court determined that certain categories of crewmembers’ employment
7 information—even sensitive information—could reasonably lead to the discovery of evidence
8 relevant to discriminatory intent. Dkt. #50 at 5-6. While JetBlue now requests that the Court
9 exempt from discovery a narrower scope of this employment information strictly limited to
10 “financial data,” that specific question was not raised in parties’ briefings on the motion to compel
11 and is not properly before the Court. *See Lauer*, 2014 WL 5471983, at *3 (“The party who resists
12 discovery . . . has the burden of clarifying, explaining, and supporting its objections.”) (internal
13 citations omitted). JetBlue’s opportunity to parse various parts of Plaintiff’s discovery requests
14 and clarify objections was during briefing on Plaintiff’s motion to compel—not on a motion for
15 reconsideration.

16 With respect to JetBlue’s argument that production of personnel files encroaches on the
17 privacy interests of JetBlue employees, the Court considered the fact that JetBlue produced Ms.
18 Pancerman’s personnel file without moving for a revised protective order. *See* Dkt. #50 at 6.
19 Accordingly, the Court found that Plaintiff was entitled to discover personnel files of the flight
20 crew, with production “made *in accordance with parties’ Protective Order*” to address any
21 sensitive information. *Id.* (emphasis added). Nevertheless, to the extent that privacy concerns
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1 still exist for the remaining crewmembers' personnel files, the Court's previous Order does not
2 preclude the parties from filing a revised protective order to address any potentially sensitive
3 information not covered by the existing protective order. For these reasons, JetBlue's Motion
4 fails to demonstrate manifest legal error by the Court in compelling production of personnel files
5 without exceptions for certain financial records.

6 **B. Medical Information**

7 JetBlue also seeks clarification on whether the Court's Order compelled production of
8 medical information, including sick leave records. Dkt. #63 at 4. Plaintiff's discovery request
9 specifically excludes "medical and FMLA information." Dkt. #20-1 at 26. Accordingly, the
10 Court's previous Order did not compel production of medical-related records.

11 **C. Crewmember Training Materials**

12 Lastly, JetBlue seeks clarification on whether the Court's Order compelled production of
13 *all* crewmember training materials, including those outside the scope of training related to race
14 or national origin discrimination and implicit bias. JetBlue claims that Plaintiff's broad definition
15 of "personnel files," which includes "training" and "training files," would include training records
16 developed by the Federal Aviation Administration ("FAA") on an array of operational subjects
17 unrelated to this case. Dkt. #63 at 5. In contrast, Plaintiff's separate document requests Nos. 10
18 and 23 only sought training materials for JetBlue employees relating to (a) race or national origin
19 discrimination and (b) implicit bias. *Id.* JetBlue now asks the Court whether its ruling on
20 document requests Nos. 10 and 23, which held that training materials received by JetBlue
21 employees on discrimination and implicit bias were discoverable, somehow limits the scope of
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1 “training” and “training files” contained in crewmembers’ personnel files. If the Court did not
2 limit the scope of “training” and “training files” in its Order to compel production of “personnel
3 files,” JetBlue asks that the Court reconsider its decision.

4 As stated above, the Court’s Order defines the scope of “personnel files” as those
5 documents “related to an individual’s employment” with reference to the definition set forth in
6 Plaintiff’s Interrogatories, therefore indicating the Court’s intention to use Plaintiff’s definition
7 of “personnel files” without creating exceptions. Dkt. #50 at 5. Accordingly, the Court will
8 consider JetBlue’s Motion as a motion for reconsideration with respect to production of
9 crewmembers’ training records.

10 Similar to its request to limit discovery of financial data, JetBlue never raised this specific
11 training records issue in its response to Plaintiff’s motion to compel—despite Plaintiff’s assertion
12 that “*all* training documents requested should be produced.” Dkt. #19 at 16 (emphasis added).
13 As the party resisting discovery, JetBlue carried the burden of clarifying that production of
14 personnel files would include these FAA training records. *Lauer*, 2014 WL 5471983, at *3 (“The
15 party who resists discovery . . . has the burden of clarifying, explaining, and supporting its
16 objections.”) (internal citations omitted). With respect to Plaintiff’s request for crewmembers’
17 personnel files, JetBlue disputed the relevance of “sensitive employment information,” Dkt. #22
18 at 9, yet failed to raise the issue involving FAA training records now raised in this Motion. Again,
19 JetBlue’s opportunity to parse various parts of Plaintiff’s discovery requests and clarify objections
20 was during briefing on Plaintiff’s motion to compel—not on a motion for reconsideration.

1 Accordingly, JetBlue's Motion fails to demonstrate manifest legal error by the Court in
2 compelling production of personnel files without exceptions for certain FAA training records.

3 III. CONCLUSION

4 For the foregoing reasons, the Court finds that Defendant's Motion for Reconsideration
5 neither demonstrates manifest legal error in the prior Order, nor directs the Court to new facts or
6 legal authority that JetBlue could not have presented in its briefing on the motion to compel.
7 Accordingly, and after having reviewed the relevant briefing and the remainder of the record, the
8 Court hereby finds and ORDERS that Defendant's Motion for Reconsideration, Dkt. #63, is
9 DENIED. Defendant's request for a stay of the Court's previous Order, Dkt. #50, shall therefore
10 also be DENIED.

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12 DATED this 17 day of June 2019.

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15 RICARDO S. MARTINEZ
16 CHIEF UNITED STATES DISTRICT JUDGE
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